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CITY OF BURBANK, including the Police  
Department of the City of Burbank

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES**

OMAR RODRIGUEZ; CINDY GUILLEN-  
GOMEZ; STEVE KARAGIOSIAN;  
ELFEGO RODRIGUEZ; AND JAMAL  
CHILDS,

Plaintiffs,

-vs-

BURBANK POLICE DEPARTMENT;  
CITY OF BURBANK; TIM STEHR;  
KERRY SCHILF; JAMIE "J.J." PUGLISI;  
DAN YADON; KELLY FRANK; PAT  
LYNCH; MIKE PARRINELLO; AARON  
KENDRICK; DARIN RYBURN; AND  
DOES 1 THROUGH 100, INCLUSIVE.

Defendants.

CASE NO: BC 414602  
[Assigned to Hon. Joanne O'Donnell,  
Dept. 37]

**DEFENDANT CITY OF BURBANK'S  
RESPONSE TO PLAINTIFF CHILDS'S  
IMPROPER OBJECTIONS TO  
UNDISPUTED FACTS.**

Date: March 18, 2010 [Date reserved]  
Time: 9:00  
Dept.: 37  
Trial: Aug. 25, 2010  
Action filed: May 28, 2009

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

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4 Defendant CITY OF BURBANK, including the Police Department of the City of Burbank  
5 ("Burbank") responds to plaintiff Jamal Childs's "Objections To City of Burbank ... Separate  
6 Statement of Undisputed Material Facts."

7 Burbank objects to plaintiff's purported "Objections" to Burbank's Separate Statement of  
8 Undisputed Material Facts because it violates numerous California Rules of Court regulating the  
9 filing of objections to evidence in summary judgment motions.

10 1. It violates rule 3.1350 by presenting "objections" to Defendant's separate  
11 statement of undisputed facts. The rules do not recognize "objections" to separate statements of  
12 undisputed facts.

13 2. It violates rule 3.1354 by not presenting "objections" in the format required by the  
14 California Rules of Court. It fails to identify and quote the specific evidence to which objections  
15 are made as required by rule 3.1354.

16 3. Burbank is not able to fully respond to plaintiff's vague objections because they  
17 do not specify the specific evidence to which the objections are made.

18 4. Plaintiff's vague, nonspecific, and general objections are harassing and  
19 burdensome, and prevent Burbank from providing complete responses.

20 5. Without waiver of the above objections, Burbank responds to plaintiff's  
21 "Objections" to the extent possible given plaintiff's failure to identify the specific evidence to  
22 which each objection applies. The objections fall into four general categories, each of which  
23 lacks merit, as follows.

24 a. Objections to using facts in his complaint. These objections are meritless because  
25 facts in a complaint are binding on plaintiff for purposes of summary judgment.

26 *St. Paul Mercury Ins. Co. v. Frontier Pacific Ins. Co.* (2003) 111 Cal.App.4th  
27 1234, 1248 states "In summary judgment or summary adjudication proceedings,  
28 "[a]dmissions of material facts made in an opposing party's pleadings are binding  
on that party as "judicial admissions." They are conclusive concessions of the  
truth of those matters, are effectively removed as issues from the litigation, and  
may not be contradicted, by the party whose pleadings are used against him or  
her.' .... "[A] pleader cannot blow hot and cold as to the facts positively stated.'""  
(Citations omitted.)

- 1 b. Objections to Chief Stehr's declaration. These objections are meritless because  
2 his declaration contains proper foundation.
- 4 c. Objections based on *Rifkind v. Superior Court*. These objections are meritless  
5 because *Rifkind* pertains only to "contention" questions and plaintiff identifies no  
6 contention questions or testimony to which *Rifkind* would apply.
- 7 d. Objections asserting lacks foundation, speculation, legal conclusion, legal  
8 argument, a hypothetical, inadmissible hearsay, or misrepresentation of testimony.  
9 These objections are meritless because plaintiff identifies no specific testimony or  
10 evidence proffered by defendant that falls within any of these categories.

11 DATED: March 12, 2010

BALLARD ROSENBERG GOLPER & SAVITT, LLP

12  
13 By: 

CHRISTINE T. HOEFFNER

14 Attorneys for Defendant

15 CITY OF BURBANK, including the Police Department of  
16 the City of Burbank  
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